

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, et al.,

Plaintiffs,

v.

5:21-cv-844-XR

GREGORY W. ABBOTT, et al.,

Defendants.

OCA-GREATER HOUSTON, et al.,

Plaintiffs,

v.

1:21-cv-0780-XR

JANE NELSON, et al.,

Defendants.

**[PROPOSED] ORDER ADOPTING OCA PLAINTIFFS' OPPOSED
REQUEST FOR JUDICIAL NOTICE**

OCA Plaintiffs have requested that the Court take judicial notice of certain facts from state criminal records. Having considered OCA Plaintiffs' request for judicial notice and all accompanying exhibits, the Court **GRANTS** the request, and takes **JUDICIAL NOTICE** of the following facts pursuant to Rule 201(b)(2) of the Federal Rules of Evidence:

A. Mark Whittaker

1. The Court takes judicial notice of certain facts contained in the following criminal state records in Case No. 296-83837-2022 in the 296th District Court in Collin County: the Docket Sheet; True Bill of Indictment; Statement of Officer filed on October 24, 2022; Statement of

Officer filed on August 8, 2023; State's Notice of Appearance of Counsel filed on August 8, 2023; Discovery Index; and OAG Incident Report # CX4553072406.

2. Specifically, the Court takes judicial notice of the following facts. Mark Whittaker was charged with illegal voting in Collin County on October 13, 2022. When a grand jury in Collin County considered these charges in July 2022, the prosecuting agency was listed as the Attorney General and the witness was listed as Joseph O'Neill, an attorney employed by the Texas Attorney General. On October 6, 2022, the Collin County Criminal District Attorney filed a notice in this case appointing Joseph O'Neill as Special Prosecutor in the District Attorney's "place and stead, to do and perform any and all acts and things pertaining to election code violations by Mark Whittaker." The case was subsequently filed by indictment on October 13, 2022. On August 8, 2023, Geoff Barr, an Assistant Attorney General in the Election Integrity Division of the Office of the Attorney General, was appointed as Special Prosecutor for the Collin County Criminal District Attorney in this case and named as the lead attorney.

3. An OAG Incident Report was filed in this case, recording investigative work conducted by Sergeant Todd Forister ("Forister"), an employee of the Office of the Attorney General. Forister recorded in the Report that he investigated Mark Whittaker for allegedly voting in Texas and another state in the same election, after the allegation was referred to the Attorney General's Office by the Secretary of State's Office. Forister further recorded that on August 17, 2022, he and another employee of the Office of the Attorney General visited Mark Whittaker's property, took photographs of his property, and spoke with his neighbors. Forister recorded that on August 17, 2022, he and another employee of the Office of the Attorney General met with an employee in the Collin County District Attorney's office to discuss the

investigation. And Forister recorded that on August 23, 2022, he spoke with Mark Whittaker about the allegations of illegal voting and recorded the conversation.

B. Jennifer Thompson

4. The Court takes judicial notice of certain facts contained in the Register of Actions in Case No. M202301136 in Johnson County. Specifically, the Court takes judicial notice of the following facts. Jennifer Rae Thompson was charged in Johnson County on September 26, 2023, with tampering with a government record, a ballot application. The lead attorney identified for the State of Texas in the case is Geoff Barr and an Order was filed on September 26, 2023, entitled “Motion and Order to Recuse and Appoint Attorney Pro Tem / File marked on 7/13/2023.”

C. Hervis Rogers

5. The Court takes judicial notice of certain facts contained in the Indictment and Order of Dismissal in Case No. 21-06-08801 in the 221st Judicial District in Montgomery County. Specifically, the Court takes judicial notice of the fact that Hervis Rogers was indicted in Montgomery County on June 24, 2021, on two charges of illegal voting under Texas Election Code 64.012(1) [sic], that the Attorney General is listed as the “Agency” on the indictment, and that the indictments in the case were subsequently quashed and set aside on October 17, 2022.

6. The Court takes judicial notice of certain facts contained in the Grand Jury No Bill in Cause No. 1828959 in the 228th Judicial District in Harris County. Specifically, the Court takes judicial notice of the fact that a grand jury in Harris County returned a No Bill for charges of illegal voting against Hervis Rogers on July 24, 2023.

D. Ignacio Gonzalez Beltran

7. The Court takes judicial notice of certain facts contained in the Register of Actions in Case No. 21-06-08808 in the 221st Judicial District in Montgomery County. Specifically, the Court takes judicial notice of the fact that charges of illegal voting against Ignacio Gonzalez Beltran in Montgomery County were dismissed on October 11, 2022.

8. The Court takes judicial notice of certain facts contained in the Grand Jury No Bill in Cause No. 1828008 in the 228th Judicial District in Harris County. Specifically, the Court takes judicial notice of the fact that a grand jury in Harris County returned a No Bill for charges of illegal voting against Ignacio Gonzalez Beltran on July 17, 2023.

SO ORDERED and SIGNED this _____ day of _____ 2023

Hon. Xavier Rodriguez
UNITED STATES DISTRICT JUDGE